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**OPINION OF THE PUBLIC ACCESS COUNSELOR**

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CHRISTIAN SCHECKLER,  
*Complainant,*

v.

ELKHART COUNTY SHERIFF'S OFFICE  
*Respondent.*

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Formal Complaint No.  
18-FC-91

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Luke H. Britt  
Public Access Counselor

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BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Elkhart County Sheriff's Office ("Sheriff") violated the Access to Public Records Act<sup>1</sup> ("APRA"). The Sheriff responded to the complaint through Captain James L. Bradberry. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on May 31, 2018.

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<sup>1</sup> Ind. Code §§ 5-14-3-1 to -10

## BACKGROUND

This case involves the request of a *South Bend Tribune* reporter's inquiry as to whether the Elkhart County Sheriff's Department erred in denying a request for records for a lack of reasonable particularity.

Around May 7, 2018, Christian Sheckler ("Complainant"), filed a public records request with the Sheriff seeking various records pertaining to a single inmate at the county jail. The requested records included transportation orders, subpoenas, warrants, and subpoenas. Sheckler identified the individual by name and the timeframe as 1990 – present.

The Sheriff denied the request for a lack of reasonable particularity. As a result, Sheckler filed a formal complaint with this Office.

In response to the formal complaint, the Sheriff argues that the thirty-year's worth of records are not contained in one centrally located folder or location but would be scattered throughout the department in various divisions and record archives. Nonetheless, the Sheriff undertook the search and did indeed provide the requested records.

## ANALYSIS

The Access to Public Records Act ("APRA") states that it is the public policy of Indiana that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.<sup>2</sup> Toward that end, providing

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<sup>2</sup> Ind. Code § 5-14-3-1.

the people with information is an “essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.”<sup>3</sup> The Elkhart County Sheriff’s Department is a public agency for the purposes of the APRA. *See* Ind. Code § 5-14-3-2(n). Therefore, any person has the right to inspect and copy the agency’s public records during regular business hours unless the records are not subject to disclosure under APRA’s mandatory or discretionary exemptions. *See* Ind. Code §§ 5-14-3-4(a) and (b).

The crux of this case is whether the records request lacked reasonable particularity because of the method of record keeping. Record keeping is one of many factors that play into “reasonable particularity,” an undefined term in the statute. *See* Ind. Code § 5-14-3-3(a)(1). Recognizing that different public agencies maintain their records in different ways, what is reasonable for one agency and one kind of record may be different than what is reasonable for another.

In any event, records must be maintained in a manner that is consistent with Indiana Code section 5-14-3-7 in that the agency must take steps to protect its records from loss. Coupled with the notion that records must not be maintained in a manner inconsistent with access, an agency’s records should be reasonable organized, centrally located (to the extent possible) and easily searched. This still leaves an agency with broad discretion to keep records in a way that allows it to perform its functions efficiently.

In the case of a jail, records may be kept according to individual inmate, i.e. a comprehensive file assigned

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<sup>3</sup> *Id.*

particularly to that one inmate. In this case, a request for *all* records as to that inmate should be relatively easy to track down within that one file. This, however, is probably not the case for all jails. It stands to reason there would be multiple files for an inmate with multiple stays spanning a long period of time if that inmate is incarcerated several times. Therefore, a file might be kept by dates of incarceration and multiple files exist for that length of time. Additionally, different divisions in the jail may keep information on an inmate regarding a type of programming – transportation, medical services, commissary, visitation, etc. could all house records apart from a central administrative file. Digitization may provide for consolidation of some but not all of those files.

The Elkhart County Sheriff has not indicated (and the allegation does not suggest) that the files are maintained in a haphazard or disorganized manner. The administration of a county jail has many moving parts. So, asking for 28-years of records on an inmate may or may not be reasonably particular for purposes of APRA. In this instance, the Sheriff provided the records, however, the parties should keep in mind that record keeping practices certainly could play a part in a determination of whether a request is reasonably particular in the future.

## **CONCLUSION**

Based on the foregoing, it is the opinion of the Public Access Counselor that the Elkhart County Sheriff's Department did not violate the Access to Public Records Act.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

**Luke H. Britt**  
Public Access Counselor